

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

BRENDAN MATTHEW TERRAL

CIVIL ACTION NO. 15-2366
Section P

VERSUS

*** JUDGE ROBERT G. JAMES**

WARDEN DUCOTE, ET AL.

*** MAG. JUDGE KAREN L. HAYES**

MEMORANDUM ORDER

This is a prisoner civil rights case filed by Plaintiff Brendan Matthew Terral (“Terral”) on September 14, 2015. After conducting an initial review, Magistrate Judge Karen L. Hayes ordered Terral to file an amended complaint. He complied with that order and, after reviewing the Amended Complaint [Doc. No. 8], Magistrate Judge Hayes ordered the lawsuit to be served on Defendants. With leave of Court, Terral filed another Amended Complaint [Doc. No. 27] on June 23, 2016.

On July 23, 2016, Defendants filed a Motion to Dismiss [Doc. No. 36] claims against certain Defendants.

On November 30, 2016, Defendants filed a Motion for Summary Judgment [Doc. No. 68].

On December 13, 2016, the Court adopted the Report and Recommendation of Magistrate Judge Hayes, granted the Motion to Dismiss, and dismissed the claims against the Jackson Parish Correctional Center, the Jackson Parish Sheriff’s Department, and Jackson Parish. The claims remained pending against the individual Defendants.

On March 3, 2017, Magistrate Judge Hayes issued an order to Terral to show cause why

his lawsuit should not be dismissed for failing to comply with her February 9, 2017 Order [Doc. No. 71] to file an updated statement of issues, or alternatively, a response to Defendants' motion for summary judgment by February 23, 2017. [Doc. No. 72]. Terral did not respond, and, on March 29, 2017, Magistrate Judge Hayes issued a Report and Recommendation [Doc. No. 73] recommending that the Court dismiss Terral's lawsuit for failure to comply with her order.

On April 7 and 10, 2017, the Clerk of Court received notices that mail addressed to Terral at Jackson Parish Correctional Center had been returned as undeliverable. [Doc. Nos. 76 & 77].

On May 11, 2017, the Court adopted Magistrate Judge Hayes' Report and Recommendation and dismissed Terral's lawsuit. [Doc. No. 78].

Six days later, on May 17, 2017, Terral filed a notice of change of address with the Clerk of Court.

On May 30, 2017, Terral filed the instant motion [Doc. No. 81] to vacate or set aside the Court's May 11, 2017 Judgment, explaining that he had not been receiving his legal mail, had not received a notice that the Motion for Summary Judgment had been filed, and did not know notices were being returned to the Court. As soon as he received his mail, Terral filed a notice of change of address with the Court. He further states that he intends to pursue his case if the Court will allow him to do so.

Based on the reasons stated, the Court finds good cause to grant the relief requested and notes the lack of prejudice to Defendants given the timeliness of Terral's filing. Accordingly,

IT IS ORDERED that Terral's motion [Doc. No. 81] is GRANTED, the Court's Judgment [Doc. No. 78] is VACATED, and this case is RE-OPENED.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgement [Doc. No. 68] is also RE-SET on the Court's calendar and REFERRED to Magistrate Judge Hayes for

report and recommendation. Terral shall have twenty-one (21) days from the date of this Memorandum Order, or until June 21, 2017, to file, by placing in the prison mailing system, an opposition to the Motion for Summary Judgment or an updated statement of issues for Magistrate Judge Hayes' consideration prior to issuance of a report and recommendation. If Terral fails to comply with the deadline, the Court may again dismiss his case for failure to prosecute and/or comply with the orders of Court.

MONROE, LOUISIANA, this 31st day of May, 2017.


ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE